

PUBLIC CHAPTER NO. 318**HOUSE BILL NO. 2266****By Representatives Shepard, Mike Turner**

Substituted for: Senate Bill No. 2247

By Senator Kyle

AN ACT to amend Tennessee Code Annotated, Section 68-11-211, relative to health data reporting.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-211, is amended by deleting the section in its entirety and substituting instead the following:

(a) The following definitions shall apply to this section:

(1) "abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish;

(2) "board" means the board for licensing health care facilities;

(3) "commissioner" means the commissioner of health;

(4) "department" means the department of health;

(5) "facility" means any facility licensed under this part and any physician's office where Level III office-based surgery occurs;

(6) "misappropriation of patient property" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money without the resident's consent.

(7) "neglect" means the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness;

(8) "patient" means a person receiving health care services from a facility, and includes a resident at a nursing home facility.

(b) Except for those facilities required to report abuse, neglect, or misappropriation pursuant to 42 CFR 483.13, each facility shall report incidents of abuse, neglect, and misappropriation that occur at the facility to the department within seven (7) business days from the facility's identification of the incident.

(c) An incident report, or any amended incident report, obtained by the department pursuant to this section, shall be confidential and not subject to discovery, subpoena or legal compulsion for release to any person or entity, nor shall the report be admissible in any civil or administrative proceeding, other than a disciplinary proceeding by the department or the appropriate regulatory board. The report is not discoverable or admissible in any civil or administrative action, except that information in any such report may be transmitted to an appropriate regulatory board having jurisdiction for disciplinary or licensing sanctions against the impacted facility; however, the department must reveal, upon request, its awareness that a specific incident has been reported. The affected patient and the patient's family, as may be appropriate, shall also be notified of the incident by the facility. The provisions of this subsection (c) and of §68-11-804(c)(23) shall not affect any of the provisions of §63-6-219, or the protections provided by §63-6-219.

(d) Each facility shall also report specific incidents, including but not limited to the following, that might result in a disruption in the delivery of health care services at the facility within seven (7) days after the facility becomes aware of the incident:

- (1) Strike by the staff at the facility;
- (2) External disaster impacting the facility;
- (3) Disruption of any service vital to the continued safe operation of the facility or to the health and safety of its patients and personnel; and
- (4) Fires at the facility that disrupt the provision of patient care services or cause harm to the patients or staff, or that are reported by the facility to any entity, including but not limited to a fire department charged with preventing fires.

(e) In the event that health care services are provided in the patient's home, then the facility shall only report those incidents that are witnessed or known by the person delivering health care services.

(f) The department shall have access to facility records that are allowed in part 3 of this chapter. The department may copy any portion of a facility medical record relating to the reported event, unless otherwise prohibited by rule or statute. This section and the provisions of §68-11-804(c)(23) do not change or affect the privilege and confidentiality provided by §63-6-219.

(g) This section does not preclude the department from using information obtained under this section in a disciplinary action commenced against a facility, or from taking disciplinary action against a facility. This section does not preclude the department from sharing such information with any appropriate governmental agency charged by federal or state law with regulatory oversight of the facility; however, all such information shall be confidential and not a public record. A facility's failure to report an incident of abuse, neglect, or misappropriation may be grounds for disciplinary action against the facility pursuant to T.C.A. §68-11-207.

(h) Nothing in this section shall be construed to eliminate or alter in any manner the required reporting of abuse, neglect, or exploitation of children or adults, or any other provisions of title 37, chapter 1, parts 4 and 6, and title 71, chapter 6, part 1.

SECTION 2. On or before January 31, 2011, the department shall submit a written report to the chairs of the senate general welfare committee and the house health and human resources committee that specifically compares and contrasts the 2007 and 2008 annual aggregate data reported to the state pursuant to Section 68-11-211 with the aggregate data available from the product of surveys performed pursuant to Section 68-11-210 of facilities conducted by the department upon passage of this act.

SECTION 3. Tennessee understands the need for the collection of certain relevant health data to ensure quality patient care and to protect the health, safety and welfare of Tennesseans and encourages health care facilities to report such data to other organizations that collect, assimilate and aggregate such data, such as the Joint Commission on Accreditation of Healthcare Organizations, the Institute for Safe Medicine Practices, the Food and Drug Administration, patient safety organizations authorized by federal law, and other authorized entities.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 14, 2009


KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 27th day of May 2009


PHIL BREDESEN, GOVERNOR